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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,637	10/24/2003	Michael Liebler-Ranzus	MOH-P010111	8633

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EXAMINER

AWAI, ALEXANDRA F

ART UNIT PAPER NUMBER

3663

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/692,637	Applicant(s) LIEBLER-RANZUS, MICHAEL	
	Examiner Alexandra Awai	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/2/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/2/2006 have been fully considered but they are not persuasive. Examiner regrets failing to acknowledge receipt of certified copies of priority documents, and as remedied the omission in this Office action. The amendments to claims 1 and 4 are acknowledged. As stated in the Remarks, the subject matter of claim 3 has been incorporated into claim 1, and claim 3 has been canceled.

Applicant's arguments apparently focus in the issue of whether or not the prior art teaches or suggests having a deflector lug formed integrally on a lower edge projection of an outer web. Applicant disagrees with Examiner's interpretation of the JP 7-43486 reference in particular. However, this disagreement is based upon an unjustifiably narrow interpretation of the structure defined by "integrally on a lower edge" (claim 1). While the cited prior art may or may not teach the structure pictured in Applicant's figures, according to a reasonable but broad interpretation of the claim language, it does read on the presently amended claims. Until such time as Applicant provides a more comprehensive explanation for why the aforementioned broad interpretation of the claims is misguided, or alternatively, claim language that further narrows the contentious limitation, the rejection will be maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 7-43486 in view of EP 0 557 085 A1, and DeMario et al. (U.S. 4,692,302).

JP 7-43486 teaches the use of gills and projections (Fig. 5) arranged on the same strip of a spacer grid. Note that the configuration of a structure may be considered a matter of design choice, which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed structure is significant (see *In re Dailey*, 357 F2d 669, 149 USPQ 47 (CCPA 1966)). Nevertheless, the projections (Fig. 5, 19) may be considered to be below the gills (Fig. 5, 20). Additionally, note that the description of the gills as “projecting to a given extent from said outer side” (claim 1) may read upon item 23 of Fig. 7 if the “given extent” is directed inwardly. In this case, adjacent projections 22 clearly project outwardly to a greater extent than said gills.

JP 7-43486 does not teach that projections and gills that are projecting in the same direction may be situated such that the projections extend beyond the gills. EP 0 557 085 A1 provides a concrete example of using relatively more extensive projections (leaf springs, 61-64) to protect (i.e., give sufficient force to bias, section 57) relatively less extensive projections (protrusions, 45-48). As discussed in EP 0 557 085 A1, such biasing registers the full dimension of the protrusions, thereby defining a sufficient interval to provide clearance for the protrusions (col. 7, lines 39-54). The structure that is provided with these protrusions and leaf springs is a peripheral band (14) for fuel rod spacers, and so the prior art represents technology that is substantially similar in structure and function to the outer side of the outer webs of the presently

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claimed spacer. The peripheral spacer band of EP 0 557 085 A1 and fuel spacer of JP 7-43486 are both designed for use in boiling water reactors.

JP 7-43486 also teaches deflector lugs (Fig. 9, articles 13 and 25), which are commonly used in the art to facilitate the contact of coolant and fuel assembly components. As the “lower edge” of the projection and “a region” of the inner web might be broadly construed, the deflectors shown in Fig. 2b of JP 7-43486, which appear to be integrally formed on the perimeter strip and extend above a projecting surface, read on the appended limitations of claim 1. DeMario et al. clearly show a section of an inner web or strip extending into a projection of the perimeter strip it intersects (Figs. 6 and 7), an arguably obvious feature given that interior strips often physically intersect the perimeter strips of spacer grids, and that those perimeter strips almost always possess protective projections, as seen from the figures. The “first supporting section” of claim 4 corresponds to the diverging chamfers, which appear to fit into the projection created by inward protrusions (64). Because the first supporting section fits into this projection, it is apparent that this projection must possess a slot, thereby encompassing the recited feature of claim 6.

The foregoing discussion has shown that each of the recited limitations of claims 1, 2 and 4 are known expedients in the prior art. It is considered that utilizing these known features to achieve an optimally functioning fuel assembly is a matter of optimization within prior art conditions or through routine experimentation (See MPEP § 2144.05 II.A). An optimization of a presently disclosed invention is not considered patentably distinct from the original invention. It would have been obvious to one of ordinary skill in the art to combine the various teachings of

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the cited references to produce an optimized spacer grid by utilizing the commonly available technology.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 7-43486, EP 0 557 085 A1, and DeMario et al. (U.S. 4,692,302) as applied to claims 1-4 above, and further in view of Kang et al. (U.S. 6,744,843).

The primary references do not explicitly teach that the deflector tags may be in contact with the interior strips of the grid as a means of support, but the contemporary art (Fig. 2) of Kang et al. shows that upwardly extending tabs may be nearly completely intersected by these components. The portion of the interior strips that abuts the deflector lugs then reads upon the “second supporting section” of claim 5. The first and second supporting sections are essentially gussets formed to support the deflector lugs, and the gusset is a notoriously well-known expedient in the mechanical arts. It would have been obvious to those skilled in the art to further modify the deflector lugs taught by JP 7-43486 and modified by DeMario et al. to be in contact with this same lateral extension of the interior webs or strips, thereby creating a gusset with an “inclined edge” (note that Applicant has not specified to what degree the edge is inclined), to reinforce said deflector lugs and improve the stability of the spacer grid while utilizing structural components that are demonstrated by the foregoing discussion to have been known in the art.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 7-43486, EP 0 557 085 A1 and DeMario et al. (U.S. 4,692,302) as applied to claims 1-4 above alone, or further in view of JP 02002980.

Even if the primary references are interpreted as not teaching that the projections themselves have slots, JP 02002980 shows the utilization of slits (12a) for the intersection of the

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interior webs or strips, which is a commonplace mechanical feature. It would have been *prima facie* obvious, if the projections were placed at the intersection points, as in Fig. 7 of DeMario et al., to have fashioned slits in the projections in order to secure the intersecting interior metal strips of the grid with the perimeter strip having the projections. Such a modification would be motivated by the implicit teaching of JP 02002980 that tabs inserted into slits is a mechanically simplistic and advantageous mode of securing the inner strips of the grid to the strips at the periphery. Utilizing this teaching would amount to no more than the application of known expedients in the art to form an optimized spacer grid as discussed in section 4 of this Office Action.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Awai whose telephone number is (571) 272-3079. The examiner can normally be reached on 9:30-6:00 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on (571) 272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AA

September 14, 2006



JACK KEITH
SUPERVISORY PATENT EXAMINER